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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/092,554 | 03/08/2002 | Yasutaka Ishii | 3273-0153P | 1456 |
| 2292 | 7590 | 05/03/2005 | EXAMINER | |
| BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747 | | | SHIAO, REI TSANG | |
| | | ART UNIT | PAPER NUMBER | |
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Please find below and/or attached an Office communication concerning this application or proceeding.



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| 10/092,554 | 03/08/2002 | | 3273-0153 P |
| | | EXAMINER | <i>Robert Shiao</i> |
| | | ART UNIT | PAPER |
| | | 1626 | 0405 |

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Commissioner for Patents

Applicant's filed Appeal Brief, dated April 08, 2005, is acknowledged, but it is not considered because applicants have not paid fee for extension of time as set forth in 37 CFR 1.136(a). However, applicant's arguments regarding the rejection of claims 4 and 10 under obviousness-type double patenting over Ishii et al. US 6,232,258, or under 35 U.S.C. 112, second paragraph have been fully considered but they are not persuasive. It is noted that the instant claim 10 or 4 is drawn to a catalyst comprising a compound of formula (II) without limitation of the catalyst and the variable Rx, which still renders obviousness-type double patenting over Ishii et al. US 6,232,258. The instant claim 10 recites the limitation "comprising", which is an open-end language and comprise products other than the compound of formula (II), i.e., acid or strong acid, see pages 17-21, and examples on pages 113-120. Moreover, it is noted that the alkoxy of alkoxy carbonyl group of variables R3-R6 of Ishii et al. formula (Ic) is having about 1 to 10 carbon atoms, which is embraced in the instant range of five or more carbon atoms of variable Rx, see Ishii et al. '258, column 3, lines 32-38, and column 17, lines 59-64.

It is suggested that applicants amend claim 10, i.e., a catalyst of formula (II), wherein Rx is a hydrocarbon group having five to twenty carbon atoms,, optionally comprising a metallic compound, would obviate rejection under 35 U.S.C. 112, second paragraph, or obvious-type double patenting.

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PRIMARY EXAMINER
1626

R.S. 4/26/05